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Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Fortune Chemical Company, Inc.

File: B-247000

Date: April 2, 1992

Catherine Theisen for the protester.
Lt. Col. William H. Spindle, Department of the Air Force,
for the agency.
Tania L. Calhoun, and Andrew T. Pogany, Esq., Office of the
General Counsel, GAO, participated in the preparation of the
decision.

DIGEST

Protest that agency improperly made small purchase award to
firm whose product was not "equal" is denied where agency
reasonably found that awardee's product was functionally
equivalent for the intended application.

DECISION

Fortune Chemical Company, Inc. protests the award of a
purchase order to Alfa Kleen Chemical Company for 15 drums
of cleaning compound under request for quotations (RFQ)
No. F04700-92-T-0280, issued by the Department of the
Air Force, Edwards Air Force Base, California. Fortune
principally contends that Alfa Kleen's product does not
comply with the RFQ's specifications.

We deny the protest.

The RFQ was issued pursuant to Federal Acquisition Regula-
tion (FAR) Part 13 small purchase procedures on October 23,
1991. The stated requirement was for a cleaning compound
for hot and cold application, and specified a brand name
product manufactured by Fortune, Part No. X-IT 5. The RFQ
instructions allowed submission of quotations based on
"equal" products; however, no salient characteristics were
listed in the RFQ.

The agency received two quotations in response to the RFQ--
Fortune offered its own brand name product for \$459 per
unit, and Alfa Kleen offered its Part No. AK-020 as an
"equal" item for \$240 per unit. The Air Force determined
that Alfa Kleen AK-020 was functionally equivalent to the
brand name cleaner for the purpose intended, and a purchase
order was issued to Alfa Kleen on November 15. Fortune was

notified of the award on December 4 and subsequently filed this protest.

Fortune principally argues that the Alfa Kleen AK-020 does not comply with the RFQ's specifications. In particular, Fortune asserts that the Alfa Kleen AK-020 does not conform to military specification MIL-C-87936A and is not on the Qualified Products List (QPL).

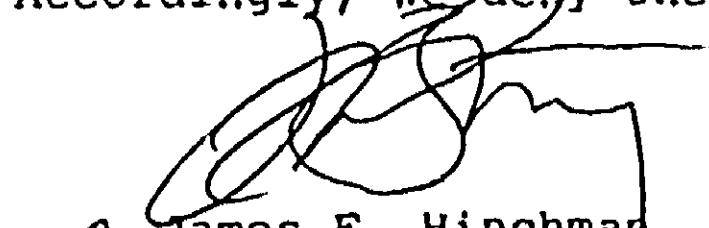
The short answer is that the military specification and the QPL requirement were not contained in the RFQ. Moreover, and in any case, as this procurement was conducted under small purchase procedures, the agency was not required to use military specifications. See East West Research, Inc., B-238177 et al., Apr. 18, 1990, 90-1 CPD ¶ 399. Instead, it could use other adequate product identification to promote competition to the maximum extent practicable. Id. Similarly, as to the allegation that the RFQ should have required the solicited product to be on the QPL, an agency is not required to restrict a procurement to products on the QPL. See Comspace Corp., B-237794, Feb. 23, 1990, 90-1 CPD ¶ 217.

Fortune also argues that the Alfa Kleen AK-020 is not "equal" to Fortune X-IT 5. As evidence that the Alfa Kleen AK-020 is not "equal" to Fortune X-IT 5, Fortune asserts that in an earlier procurement the Air Force found the Alfa Kleen AK-020 unacceptable because it caused hot aircraft parts to emit potentially toxic smoke and it stained aircraft. The Air Force does not dispute this assertion, but states that while the Alfa Kleen AK-020 is unacceptable (and not "equal" to Fortune X-IT 5) in situations where it will be used on aircraft skins and extremely hot jet engine parts, it is an acceptable "equal" to Fortune X-IT 5 in other cleaning situations.

The contracting agency has the primary responsibility for determining its minimum needs and for determining whether an offered item will satisfy those needs, since it is the agency that is most familiar with the conditions under which the supplies or services will be used and that must bear the burden of difficulties incurred by reason of a defective evaluation. East West Research, Inc., B-238316, Apr. 18, 1990, 90-1 CPD ¶ 400; Rhine Air, B-226907, July 29, 1987, 87-2 CPD ¶ 110. Hence, our Office will not question an agency's determination of its minimum needs unless there is a clear showing that the determination has no reasonable basis. East West Research, Inc., B-238316, supra. The product required for the subject procurement will be used to clean aircraft tires and wheels, not hot engine parts or aircraft, the agency states, and the record shows that the Alfa Kleen cleaner is an equivalent product for this purpose. In this regard, Fortune has failed to provide any

evidence indicating that the agency's determination that the Alfa Kleen AK-020 was a functional equivalent to Fortune X-IT 5 for the intended application was unreasonable, and Fortune's disagreement with the agency's judgment does not constitute such evidence. See Philips Med. Sys. N. Am. Co., B-237598.2; B-237599.2, Apr. 17, 1990, 90-1 CPD ¶ 395. Therefore, we find no merit to this allegation.¹

Accordingly, we deny the protest.


James F. Hinchman
for General Counsel

¹Although the RFQ did state the cleaner was for hot and cold application, the record shows that Fortune was not misled. Specifically, Fortune has never alleged that it would have offered another product, lowered its price, or altered its proposal in any way had it known that the intended application of the product was to wash aircraft tires and wheels rather than aircraft and aircraft parts, nor does the record indicate such possibility.